



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: January 26, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013252



On December 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's September 17, 2016 eligibility redetermination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the NY State of Health Account ID at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

This page intentionally left blank.



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Decision

Decision Date: January 26, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013252



## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that your and your spouse's eligibility for advance premium tax credits ended effective November 1, 2016?

Did NYSOH properly determine that you and your spouse were eligible to purchase a qualified health plan at full cost effective December 1, 2016?

## Procedural History

On December 30, 2014, NYSOH issued an eligibility determination notice stating that you and your spouse were conditionally eligible to receive up to \$524.00 in advance payments of the premium tax credit (APTC) and conditionally eligible to receive cost-sharing reductions (COST-SHARING REDUCTIONS) if you enrolled in a silver-level qualified health plan, effective February 1, 2015.

On January 14, 2015, NYSOH issued an enrollment confirmation notice stating you and your spouse were enrolled in a silver-level qualified health plan (QHP) at a cost of \$495.86 per month after your monthly APTC was applied, with coverage effective January 1, 2015.

On January 18, 2015, NYSOH issued a Form 1095-A, Health Insurance Marketplace Statement for year 2014.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

On January 27, 2015, NYSOH received back from the U.S. Post Office the January 18, 2015 Form 1095-A with the outside envelope marked "RETURN TO SENDER, [REDACTED] TEMPORARILY AWAY RETURN TO SENDER". (see Document [REDACTED])

On October 24, 2015, NYSOH issued a renewal notice that stated, based on federal and state data sources, a decision about whether or not you and your spouse qualified for financial assistance could not be made. You were instructed by that notice to update your NYSOH account by December 15, 2015 or the financial assistance you and your spouse were receiving might end.

On December 21, 2015, NYSOH issued an eligibility determination stating that you and your spouse were newly eligible to purchase a qualified health plan (QHP) at full cost effective January 1, 2016. This was because you did not respond to the renewal notice and did not complete your renewal within the required timeframe.

Also on December 21, 2015, NYSOH issued an enrollment confirmation notice stating you and your spouse were enrolled in a couple's silver-level QHP at a cost of \$1,150.82 per month, effective January 1, 2016.

On January 27, 2016, NYSOH received your updated application for health insurance.

On January 28, 2016, NYSOH issued an eligibility determination notice, based on the information contained in the January 27, 2016 application, stating that you and your spouse were conditionally eligible to receive up to \$771.00 per month in APTC and conditionally eligible to receive COST-SHARING REDUCTIONS if you enrolled in a silver level QHP, effective March 1, 2016. That notice further directed you to provide documentation confirming your income before April 26, 2016.

On January 29, 2016, NYSOH issued a Form 1095-A, Health Insurance Marketplace Statement for year 2015.

On February 5, 2016, NYSOH received back from the U.S. Post Office the January 29, 2016 Form 1095-A with the outside envelope marked "RETURN TO SENDER, [REDACTED], TEMPORARILY AWAY RETURN TO SENDER". (See document [REDACTED])

No updates to your NYSOH account were made by April 26, 2016.

On September 17, 2016, a system eligibility was run on your NYSOH account and a preliminary eligibility determination was prepared finding you and your spouse were not eligible to receive help paying for your health insurance

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

coverage. However, you and your spouse could purchase a qualified health plan through NYSOH at full cost, effective November 1, 2016.

On September 18, 2016, NYSOH issued an eligibility redetermination notice based on the information contained in the September 17, 2016 system updated application, stating that you and your spouse were eligible to purchase a QHP at full cost through NYSOH, effective November 1, 2016. You and your spouse were ineligible to receive APTC, Medicaid, the Essential Plan or COST-SHARING REDUCTIONS because NYSOH did not receive the documentation needed to verify the income listed on your application and the date to send this information had passed.

Also on September 18, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were automatically enrolled in your silver-level QHP plan at full cost and that you must pay the monthly premium to keep your coverage.

On October 11, 2016 and October 12, 2016 NYSOH issued eligibility determinations based on updated information that was received, stating that you and your spouse were eligible to purchase a QHP at full cost, effective November 1, 2016. You and your spouse were ineligible to receive a tax credit and income based cost-sharing reductions because NYSOH was missing information about your 2015 taxes. See the following sections from NYSOH's eligibility determination notice dated October 11, 2016 on pages 4-5:

***“What you need to do to see if you qualify for the advance payment of the premium tax credit:***

***If you have not filed a 2015 federal tax return with Form 8962 or if you requested an extension to file your federal tax return...***

*Then, file your 2015 federal income tax return with “IRS Form 8962 Premium Tax Credit” and reconcile advance payment of the premium tax credit (APTC) for all members of your household who received APTC in 2015, even if you don't usually have to file taxes. You should have received a Form 1095-A – Health Insurance Marketplace Statement from us. You will need this form to help fill out Form 8962 and file your 2015 federal income tax return.*

*After the IRS has processed your 2015 federal tax return with “IRS Form 8962 Premium Tax Credit”, come back and update your NY State of Health application. If we confirm that you have filed your 2015 federal income tax return and reconciled your 2015 APTC when we check IRS records, we will be able to determine if you are eligible to receive financial help.*

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

**Helpful information about filing your 2015 federal tax return using Form 8962:**

- If you do not have a copy of “Form 1095-A,” visit [www.nystateofhealth.ny.gov](http://www.nystateofhealth.ny.gov), log into your NY State of Health account, and click on your “Inbox”. Call us at 1- 855-766-7860 if you did not receive your 1095-A for 2015.
- For more information on filing a 2015 federal tax return using Form 8962, visit [www.healthcare.gov/taxes/](http://www.healthcare.gov/taxes/) or [www.irs.gov/aca](http://www.irs.gov/aca). If you filed a tax return but didn’t include “Form 8962,” you may need to file an amendment to your tax return (Form 1040X). To learn more, call the IRS Telephone Assistance for Individuals.
- If you have questions about your household’s tax filing status for 2015, use the Interactive Tax Assistant (<http://www.irs.gov/uac/Interactive-Tax-Assistant-ITA-1>) or call IRS Telephone Assistance for Individuals at 1-800-829-1040.
- In many cases, filing your tax return electronically is free, can help avoid mistakes, and will help you find credits and deductions that may be available to you. For more information about Free File and e-file, please visit [www.irs.gov](http://www.irs.gov) and search for “free file” or “e-file.”

On October 18, 2016, NYSOH issued an eligibility determination based on updated information that was received, stating that you and your spouse were eligible to purchase a QHP at full cost, effective December 1, 2016. You and your spouse were ineligible to receive a tax credit and income based cost-sharing reductions because NYSOH was missing information about your taxes.

On October 25, 2016, NYSOH issued an enrollment confirmation notice stating you and your spouse were enrolled in a silver-level QHP at a cost of \$1,150.82 per month, with coverage effective January 1, 2016.

On November 14, 2016, you contacted NYSOH’s Account Review Unit and requested an appeal of the September 18, 2016 and subsequent eligibility determinations as they related to your and your spouse’s eligibility for APTC and cost-sharing reductions.

On December 19, 2016, you had a telephone hearing with a Hearing Officer from NYSOH’s Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) According to your NYSOH account and your testimony, you receive your notices electronically. You testified that you have been regularly receiving your email notices as well as paper notices at your mailing address.
- 2) You testified that you received the January 28, 2016 eligibility determination notice.
- 3) You testified that you and your spouse run a campground and, during the winter period, you travel to Florida for several months.
- 4) You testified that one time when you spoke with a NYSOH representative, you signed up for automatic renewal of your health plan. You testified that you thought you were informed that NYSOH would automatically check your income tax records so you did not send in income tax records as proof of income.
- 5) You testified that you first learned you were losing your APTC and cost-sharing reductions and would have to pay full cost for your health plan when you received the September 18, 2016 eligibility redetermination notice.
- 6) According to your NYSOH account and your testimony, you completed your 2015 Form 1040 Tax Return on September 17, 2016 and uploaded a copy of it to your NYSOH account on October 12, 2016. (see Document [REDACTED])
- 7) According to your NYSOH account and your testimony, on December 2, 2016, you uploaded a copy of your Form 4868 Application for Automatic Extension for Time To File U.S. Individual Income Tax Return that you filed on April 18, 2016. (see Document [REDACTED]).
- 8) According to your NYSOH account, the Form 1095-A "Health Insurance Marketplace Statement" dated January 18, 2015 sent to your mailing address was returned to NYSOH by the U.S. Post Office on or about January 27, 2015.
- 9) According to your NYSOH account, the Form 1095-A "Health Insurance Marketplace Statement" dated January 29, 2016 sent to your mailing address was returned to NYSOH by the U.S. Post Office on or about February 5, 2016.
- 10) You are seeking insurance for you and your spouse.
- 11) The application that was submitted on January 27, 2016 listed annual household income of \$32,000.00, consisting of income you and your

spouse earn from the operation of your campground. You testified that this amount was correct at the time.

12) The Form 1040 U.S. Individual Income Tax Return dated September 17, 2016 which you submitted to NYSOH on October 12, 2016 reflects adjusted gross income of \$33,374.00. There does not appear to be an IRS Form 8962 "Premium Tax Credit" submitted with that 2015 Form 1040 Income Tax Return.

13) Your application states that you and your spouse live in Ulster County, New York.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Verification of Eligibility for Advance Payments of the Premium Tax Credit

APTC is generally available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

An applicant is required to attest to their household's projected annual income for purposes of determining their eligibility for APTC (45 CFR §155.320(c)(3)(ii)(B)). For all individual's whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding social security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR §155.320(c)(1)(i); 45 CFR §155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant in order to resolve the inconsistency (45 CFR §155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).



based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 §155.310(f), 45 CFR §155.330(e), (f)(1)(i)).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account within 1 day of the notice being generated (45 CFR §155.230(d); 42 CFR §435.918(b)(3) and (4). If an electronic notice is undeliverable, NYSOH must send a notice by regular mail within three business days of the date of a failed electronic communication (42 CFR §435.918(b)(5)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your and your spouse's eligibility for APTC ended effective November 1, 2016.

An individual, or here a couple, requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to their household's projected annual income. For individuals seeking APTC, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on January 28, 2016, you were advised that your and your spouse's eligibility for APTC was only conditional, and that you needed to confirm your household's income before April 26, 2016.

The record reflects that NYSOH did not receive the requested income documentation before the deadline.

You testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. There is no evidence in your account documenting that any email alert was sent to you regarding the need to submit

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

documentation. However, you testified that you did receive the January 28, 2016 eligibility determination. You testified that you thought NYSOH would automatically check your tax records with the IRS and that you therefore did not need to submit a copy of your tax return.

However, according to your NYSOH account and your testimony, you did not submit your 2015 Tax Return to the IRS until on or about September 17, 2016. Also, you did not submit a copy of this 2015 Form 1040 to NYSOH until October 12, 2016. That tax document does not include a Form 8962 "Premium Tax Credit."

Therefore, the credible evidence in the record is that NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation. Any changes in APTC are to be made effective the date following the eligibility redetermination notice.

Accordingly, your and your spouse's eligibility for APTC should have ended as of October 1, 2016, the month following the September 18, 2016 eligibility redetermination.

Therefore, the September 18, 2016 eligibility redetermination notice is MODIFIED to state that you and your spouse were not eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application, effective October 1, 2016.

The second issue under review is did NYSOH properly determine on October 11, 2016, October 12, 2016 and October 18, 2016 that you and your spouse were eligible to purchase a qualified health plan at full cost effective November 1, 2016 and December 1, 2016 respectively?

According to your NYSOH account and your testimony, you uploaded copies of your 2015 U.S. Income Tax return on October 12, 2016.

On October 11, 2016, October 12, 2016, and October 18, 2016, NYSOH issued eligibility redeterminations that stated you and your spouse were qualified to buy a health plan at full cost. Those notices further stated that you and your spouse were not eligible for a tax credit and income based cost-sharing reductions because NYSOH was missing information about your taxes.

According to your NYSOH account and your testimony, you did not submit your 2015 tax return to the IRS until on or about September 17, 2016. Also, you did

not submit a copy of this 2015 Form 1040 to NYSOH until October 12, 2016. That tax document does not include a Form 8962 Premium Tax Credit.

As stated in the October 11, 2016, October 12, 2016 and October 18, 2016 eligibility determination notices, NYSOH was missing information about your 2015 taxes. It appears that no "IRS Form 8962 Premium Tax Credit", was filed with your 2015 Federal Income Tax Return and, therefore, NYSOH was unable to determine if you were eligible to receive financial help in November 2016 and December 2016.

Therefore, the October 11, 2016, October 12, 2016 and October 18, 2016 eligibility redetermination notices are AFFIRMED.

## **Decision**

The September 18, 2016 notice of eligibility redetermination notice is MODIFIED to state that you and your spouse were not eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application, effective October 1, 2016.

The October 11, 2016, October 12, 2016 and October 18, 2016 eligibility redetermination notices are AFFIRMED.

Your case is RETURNED to NYSOH to change your ineligibility for APTC to October 1, 2016 and to notify you accordingly.

**Effective Date of this Decision:** January 26, 2017

## **How this Decision Affects Your Eligibility**

You and your spouse were not eligible to receive APTC, effective October 1, 2016, because you did not provide documentation of your household's income.

You and your spouse remain eligible for qualified health plan at full cost effective October 1, 2016.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

### **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The September 18, 2016 notice of eligibility redetermination notice is MODIFIED to state that you and your spouse were not eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application, effective October 1, 2016.

The October 11, 2016, October 12, 2016 and October 18, 2016 eligibility redetermination notices are AFFIRMED.

Your case is RETURNED to NYSOH to change your ineligibility for APTC to October 1, 2016 and to notify you accordingly.

You and your spouse were not eligible to receive APTC, effective October 1, 2016, because you did not provide documentation of your household's income.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

You and your spouse remain eligible for qualified health plan at full cost effective October 1, 2016.

## **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

**A Copy of this Decision Has Been Provided To:**

